

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA

Anthony Moore,

Petitioner,

-vs-

N.C. English,

Respondent.

Case No. 3:16-cv-435

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

Pursuant to 28 U.S.C. § 636, the court has received a Report and Recommendation from the Honorable Alice R. Senechal, United States Magistrate Judge.<sup>1</sup> The Report and Recommendation recommends that Moore's habeas petition be dismissed without prejudice for lack of jurisdiction. Moore filed an objection after the deadline for submitting objections expired.<sup>2</sup> In his objection, he contends the magistrate judge misapplied the law because there is no requirement that he seek leave to file a second habeas corpus petition. He also states that he did not receive the Report and Recommendation until March 2, 2017.

The court has considered Moore's objections and the record. After reviewing the magistrate judge's Report and Recommendation, the record, and Moore's objections, the court finds the magistrate judge's analysis and recommendation for disposition is appropriate. Accordingly, the court hereby adopts the Report and Recommendation in its entirety.

**IT IS HEREBY ORDERED** that Moore's petition be dismissed without prejudice for lack of jurisdiction because it is a second or successive petition challenging his state

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<sup>1</sup> Doc. #14.

<sup>2</sup> Doc. #15.

court conviction in Cass County Case No. 09-01-K-02551. Moore must obtain authorization from the Eighth Circuit Court of Appeals to file a second or successive § 2254 petition prior to filing the petition in this court.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated this 7th day of March, 2017.

/s/ Ralph R. Erickson  
Ralph R. Erickson, District Judge  
United States District Court